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IN THE

Supreme Court of the United States

OCTOBER TERM, 1994

ELOISE ANDERSON, in her official capacity as Director of the California Department of Social Services and RUSSELL GOULD in his capacity as Director of the California Department of Finance,

Petitioners,

v.

VERNA EDWARDS, guardian ad litem for VERNAIS EDWARDS, *et al.*,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

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AMICUS CURIAE BRIEF OF THE AMERICAN ASSOCIATION OF RETIRED PERSONS IN SUPPORT OF RESPONDENTS

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AMICUS CURIAE BRIEF OF THE AMERICAN ASSOCIATION OF RETIRED PERSONS IN SUPPORT OF RESPONDENTS

INTEREST OF THE *AMICUS CURIAE*

The American Association of Retired Persons (AARP) is a not-for-profit membership organization of 33 million persons aged 50 and over, dedicated to addressing the needs and interests of older Americans. In representing the interests of its members, AARP seeks to: (a) enhance the quality of life for older persons; (b) promote independence, dignity, and purpose for older persons; (c) advance the role and place of older persons in society; (d) sponsor research on physical, psychological, social,

economic, and other aspects of aging; and (e) represent the views of older persons on issues of importance to them.

As the largest membership organization in the United States serving older persons, AARP is concerned that adequate economic support is available to its members and to other older persons who are raising their orphaned or abandoned grandchildren or other dependent relatives. Approximately 3.4 million children under age eighteen currently live with their grandparents.[1] Arlene F. Saluter, U.S. Bureau of Census, *Current Population Reports, Series P20-478, Marital Status and Living Arrangements: March 1993*, at xiv, Table H (May 1994). In approximately one-third of these households, neither parent is present and the grandparent assumes the role of primary caregiver. *Id.* The number of grandparent caregivers has increased by 40 percent over the last decade. *Id.* It is likely the number will continue to grow because of the prevalence of forces which stress and destroy families.

Reasons for the increase in the number of grandparent caregivers vary, and include teen pregnancy, substance abuse, death, divorce, parental joblessness, incarceration, neglect, child abuse, abandonment, and AIDS. Report of the Chairman, Subcomm. on Human Services of House Select Comm. on Aging, 102d Cong., 2d Sess., *Grandparents Rights: A Resource Manual* 2 (Comm. Print 1992). Often Aid to Families with Dependent Children (AFDC) is the critical economic support that enables grandparents to keep the family unit together and avoid foster care placement. Meredith Minkler & Kathleen M. Roe, *Grandmothers as Caregivers: Raising Children of the Crack Cocaine Epidemic* 92-98 (1993).

In response to this rapidly growing phenomenon, AARP established the Grandparent Information Center

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[1] This figure *excludes* children whose parent(s) maintains the household, even if the grandparents live with them.

in 1993. The Center works with national and community-based service organizations to assess this trend and to provide information and resources to help grandparents perform their surrogate parent roles. Formal data are still being collected by the Center, but information presently available, albeit largely anecdotal, suggests substantial and increasing involvement by grandparents in situations similar to those presented in this case.

Grandparent caregivers are often financially unprepared to provide for the care of grandchildren. Some grandparents may have struggled to support themselves and their families all their lives and are forced to bear the unexpected burden of again supporting children. However, many others may have had the resources to make financial plans for their retirement only to find themselves faced with inadequate funds to raise a second family.

The children in the case before this court have grandparents and other caretaker relatives who are trying to hold their families together rather than relinquishing them to the state for foster care or institutional placement. Given the potential ramifications of this case for grandparent caregivers and the needy dependent children they are trying to raise, AARP submits this brief as *amicus curiae* [2] in support of Respondents.

STATEMENT OF THE CASE

AARP adopts the Respondents' statement of the case.

SUMMARY OF ARGUMENT

There has been a staggering growth in the number of needy children being raised by grandparents who depend on Aid to Families with Dependent Children (AFDC) benefits for economic support. Several factors have led to a dramatic rise in the numbers of grandchildren being

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[2] The written consents of the parties have been filed with the Clerk of the Court pursuant to Sup. Ct. R. 37.3.

raised by grandparents, including parental unemployment, alcohol and drug addiction, incarceration, the AIDS epidemic, and teen pregnancy. An AARP analysis of Census Bureau projections indicates that there are probably more than 633,000 grandparent households raising grandchildren with no parent present. The Women's Initiative, American Association of Retired Persons, *Going It Alone: A Closer Look at Grandparents Parenting Grandchildren* 3 (1994).

Grandparent caregivers are predominantly women, many of whom do not live with spouses. Many are poor and look to AFDC for basic economic support. Unfortunately, state AFDC benefit levels are set substantially below the poverty level and already are inadequate to meet the needs of poor children and families.

The purpose of AFDC is to encourage care for needy and dependent children, by parents or by relatives, and to maintain and strengthen family life. 42 U.S.C. § 601 (1988). California's "consolidated filing unit rule" results in a substantially lower AFDC monthly payment for the combined assistance unit than if the units were not combined. This rule directly conflicts with the purposes of the AFDC program. It forces families, more and more frequently headed by single, older, poor grandmothers, to do without basic necessities, suffer shame and embarassment, and even break apart. Even worse, the policy most hurts the poorest of the poor. Non-siblings living with grandparents wealthy enough to opt out of the AFDC assistance unit continue to be treated as separate units. As such, these grandparents, although wealthier, receive more AFDC funds to raise their grandchildren than more needy grandparents who qualify for AFDC and are included in the unit. This result offends the intent of Congress in establishing and maintaining the AFDC program as a safety net for abandoned and orphaned children.

ARGUMENT

The AFDC program provides monthly cash grants to families with dependent children. Eligibility for AFDC is based on financial need and the amount AFDC recipients receive is based on the number of persons in the assistance unit. An assistance unit can consist of one or more children, or a caretaker(s) and one or more children. Federal requirements mandate that all parents and sibling children be included in one assistance unit. 42 U.S.C. § 602(a)(38) (Supp. V 1993). California's "consolidated filing unit rule" combines all non-sibling children living in the same household with only one caretaker relative into a single assistance unit. MMP § 82.824.1.13. The combined assistance unit determines the AFDC payment amount. Under the consolidation policy, the AFDC payment for an individual needy child is considerably less than if the household were considered to be two or more units. The result is to discourage grandparents and other relatives from taking additional children into their households.

AARP will rely on the respondent and other *amici* to argue more fully that the Court of Appeals for the Ninth Circuit was correct in rejecting California's "consolidated filing unit rule." This *amicus* brief focuses on the increasing need for and important public purpose served by the Aid to Families with Dependent Children (AFDC) program as a safety net for grandparents serving as primary caretakers for their grandchildren.

I. THERE HAS BEEN A STAGGERING GROWTH IN THE NUMBER OF NEEDY CHILDREN BEING RAISED BY GRANDPARENTS.

The phenomenon of grandparents raising grandchildren is not a new one, but the numbers are growing in a dramatic fashion.[3] Since 1980 there has been a 44 percent

[3] Other older relatives of orphaned and abandoned children, such as great aunts and uncles, undoubtedly assume caretaker

increase in the number of grandchildren living in homes maintained by their grandparents. Saluter, *supra,* at xiv, Table H. The Census Bureau estimates that, in 1993, approximately 3.4 million children in the United States lived with grandparents. *Id.* In about one-third of these households, neither parent of the grandchild was present. *Id.* Over the last 25 years, the number of children living in households headed by grandparents has increased by more than 50 percent.[4] Even more alarming is an increase of 17 percent (150,000 children) in just one recent year. *Compare* Arlene Saluter, U.S. Bureau of the Census, *Current Population Reports, Series P20-468, Marital Status and Living Arrangements: March 1992,* at xiii, Table H (Dec. 1992); *with* Saluter, *supra, Current Population Reports: March 1993,* at xiv, Table H.

Grandparents assume the role of parents for a number of reasons, including escalating parental unemployment, incarceration, teenage pregnancy, alcohol and drug addiction, and the AIDS epidemic. Linda M. Burton, *Black Grandparents Rearing Children of Drug-Addicted Parents: Stressors, Outcomes, and Social Needs* 32 Gerontologist 744 (1992). Some analysts predict that by 1995, approximately 20,000 children in New York City alone will be orphaned because of AIDS, and many of those children will end up in a grandparent's care. Meredith Minkler, et al., *Community Interventions to Support Grandparent Caregivers,* 33 Gerontologist 807 (1993).

A study conducted by Margaret Platt Jendrek offers some insight into why grandparents assume care of grandchildren. The grandmothers in Jendrek's study cited five chief reasons for assuming this responsibility: (1)

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responsibilities, but the research has concentrated on grandparent caretakers. Therefore the data presented herein concerns grandparent caretakers.

[4] In 1970, 2,214,000 children under age 18 lived in grandparent-headed households. By 1993, that number had grown to 3,368,000. The Women's Initiative, *supra,* at 1, n.1.

mother's emotional problems (72.7 percent); (2) prevention of grandchild's placement in foster care (53.1 percent); (3) mother's drug problems (52.8 percent); (4) mother's alcohol problems (44.1 percent); and (5) mother's mental health problems (48.3 percent). Margaret Platt Jendrek, *Grandparents Who Parent Their Grandchildren: Findings and Policy Implications* 16 (1993). In these households, grandparents have assumed primary responsibility, at least temporarily and often informally, for feeding, clothing, sheltering and nurturing their grandchildren.[5]

II. GRANDPARENTS RAISING GRANDCHILDREN ARE PREDOMINANTLY GRANDMOTHERS, OF ALL RACES AND ETHNICITIES, WHO OFTEN HAVE INSUFFICIENT INCOME TO PROVIDE FOR THEIR GRANDCHILDREN'S BASIC NEEDS.

A. Demographics Show That The Majority Of Grandparents Raising Grandchildren Are Women And That Grandparent Caregivers Come From All Racial And Ethnic Groups.

The AARP Women's Initiative analyzed unpublished data from the March 1992 Current Population Survey (CPS), an annual survey of approximately 150,000 per-

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[5] In their study of grandmothers raising children of the crack cocaine epidemic, Minkler and Roe identified three patterns to describe how grandparents become caretakers. In the first and least common, the grandmother assumes the care abruptly, as when the child is abandoned in the hospital at birth. Minkler & Roe, *Grandmothers as Caregivers, supra*, at 55. More frequently the grandmother negotiates informally with the parent to allow the child to stay with her while the parent goes into treatment or "straightens out." *Id.* And finally, in the most common pattern, a grandmother is becoming more concerned over an adult child's drug involvement and the toll it is taking on the grandchildren. She assumes custody after increasingly lengthy periods of informal care. These grandmothers often feel forced either to take the child directly or to call the police or Child Protective Services to have the child removed from the parent's home. *Id.*

sons in nearly 60,000 households conducted by the U.S. Census Bureau. The Women's Initiative, *supra*, at 2. This analysis paints a telling portrait of grandparent caregivers. "There are 551,025 midlife and older adults in 352,945 midlife and older households caring for their grandchildren with neither parent present." *Id.* at 3. Add those grandparents younger than age 45 and the number of grandparent households raising grandchildren with no parent present exceeds 633,000.[6] *Id.*

Not surprisingly, 60 percent—or 330,909—of these grandparent caregivers are grandmothers and 40 percent are grandfathers. However, 96 percent of the grandfather caregivers are married while only 63 percent of grandmothers have spouses. "In other words, only a few (9,853) grandfathers are caring for their grandchildren without the help of a spouse, but 122,627 unmarried grandmothers are rearing grandchildren alone." *Id.* Viewed another way, an overwhelming 93 percent of all the single grandparent caregivers raising grandchildren are women. *Id.*

No racial or ethnic group is spared. Nearly 70% of the grandparent caretakers are white. Twenty-nine percent are black. Ten percent of grandparent caregivers are Hispanic, two percent are Asian/Pacific Islanders, and one percent are American Indians. *Id.* at 4. Approximately 12 percent of African-American children live in the home of a grandparent, compared to six percent of Hispanic children and four percent of white children. Saluter, *Current Population Reports, March 1993*, *supra*, at xiv, Table H.

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[6] The Women's Initiative study found that the median age of grandparent caregivers is 57. Twenty-three percent (127,292) are aged 65 and older, while nearly 36,000—or seven percent—of the grandparent caregivers are aged 75 or older. *Id.*

B. Many Grandparent Caregivers Are Poor Or Near Poor And Every Dollar Of AFDC Is Critical To Maintaining The Family.

Most grandparents are not in a financial position to assume the full-time care of grandchildren. Seventy-seven percent of those surveyed by Linda M. Burton reported that they needed economic assistance to take care of their grandchildren, Burton, *supra*, at 750, and 69 percent of the grandmothers in Minkler's study said their incomes were inadequate to meet their grandchildren's needs. Minkler & Roe, *supra*, at 41.

Twenty-seven percent of midlife[7] and older grandparent caregivers live at or below the poverty level,[8] and another 14 percent have incomes below 150 percent of poverty. The Women's Initiative, *supra*, at 4. Fifty-six percent of grandparent caregiver households of all ages have incomes of less than $20,000 and the median income is $18,000. *Id.*

The fact that grandparent caregivers are predominantly women means that they are more likely to be poor. Poverty rates among women, as compared to men, have always been high and have risen in recent years.[9] This "feminization of poverty" is well documented and is due,

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[7] "Midlife" is defined in the AARP study as persons aged 45 to 64; "older" are those aged 65 and older. The Women's Initiative, *supra*, at 2.

[8] The poverty threshold in 1992 for a single, elderly individual (aged 65 and older) was $6,729. U.S. Bureau of the Census, *Current Population Reports, Series P60-185, Poverty in the United States: 1992*, at vii (1993).

[9] Two out of three poor adults are women and one out of five children is poor. Women head half of all poor families and over half the children in female-headed households are poor: 50 percent of white children; 68 percent of black and Latin children. Michael B. Katz, *In the Shadow of the Poorhouse: A Social History of Welfare in America* 275 (1986). Between 1970 and 1978, the number of women family heads below the poverty level rose 38.7 percent. *Id.*

in part, to ineligibility for social security among elderly women and to tax and welfare policies that decrease the income of women who work at low-paying service jobs, which make up the bulk of their opportunities for paid employment. Katz, *supra*, note 9, at 275.

Older women, in particular, are much more likely than older men to be living below or near the poverty line. Nearly three-fourths of the nation's four million elderly poor are women. U.S. Bureau of the Census, *supra*, *Poverty in the United States: 1992*, at 10, Table 5.[10] In addition, elderly black and Hispanic women are especially vulnerable to living in poverty.[11]

Grandparents who are solely responsible for financial support [12] and childcare often have fewer resources and may face greater economic challenges than traditional and other types of extended families. The Women's Initiative, *supra*, at 2. Many grandparents are retired and living on fixed incomes; therefore, they are likely to need financial assistance to "help defray the considerable expenses of raising grandchildren." *Id.* at 6. AFDC is the primary source of cash assistance available to families in this situation. Twenty-eight percent (97,164) of midlife and older grandparent caregivers receive AFDC, "a number three times higher than for any other type of nontraditional household." *Id.*

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[10] Older women are nearly twice as likely as older men to be poor; about 16 percent of women age 65 and older lived below the poverty line in 1992, compared to about nine percent of men at that age. *Id.* An additional 10 percent of women and six percent of men were near poor. (The Census Bureau defines "near poverty" as 25 percent higher than the federal poverty level.) *Id.* at 16, Table 6.

[11] Thirty-eight percent of black women aged 65 and older and 25 percent of older women of Hispanic origin were living in poverty in 1992, as compared to 14 percent of white women. U.S. Bureau of the Census, *supra*, at 10, Table 5.

[12] According to an AARP analysis of Current Population survey data, only six percent of midlife (aged 45 to 64) and older (aged 65 and older) grandparent caregiver households report receiving child support. The Women's Initiative, *supra*, at 2, n. 5.

Every dollar is critical for those living in or at the edge of poverty. The drop in income caused by California's policy endangers a family's ability to maintain its household. For example, Mrs. Edwards, a named plaintiff in this action, originally received an AFDC grant of $901 to care for three children when they were considered two separate assistance units. (The grandchild she took in was one assistance unit and the two grandnieces Mrs. Edwards subsequently took in were a separate assistance unit.)[13] When the assistance units were consolidated into one three-person assistance unit, Mrs. Edwards' AFDC grant was reduced to $630. This drop in income for the household forced Mrs. Edwards to borrow money from a loan shark, and even then the children in her care went without adequate clothing. Although disabled herself, she made other sacrifices in her attempt to keep her granddaughter and grandnieces together as a family. (Res. Brf. at Statement of the Case).[14]

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[13] This amount is based on the AFDC benefit levels in California when this lawsuit was originally filed in 1991. California has subsequently reduced the AFDC benefit amounts (e.g., a one person AFDC grant was $341 in 1991 and is $299 in 1994).

[14] The Wilkes family provides another example of how the consolidation policy endangers a family's ability to maintain the household. *Wilkes v. Gomez*, 32 F.3d 1324, 1327 (8th Cir. 1994). The Wilkes couple cares for 10 of Mrs. Wilkes' grandchildren—four are the children of a daughter who does not reside with them and six are children of another daughter who died. Before her death, the daughter lived with her six children in the Wilkes' home and these seven were treated as a separate assistance unit from the other four children and Mrs. Wilkes. After the daughter died, the two assistance units were consolidated because of Minnesota's nonsibling household policy, a provision which is nearly identical to the California policy at issue in this case. Minnesota Rule 9500.2440, Subpt. 3. Mrs. Wilkes and her 10 grandchildren now receive $902 each month. If the grandchildren were treated as separate households, per the rule of *Beaton v. Thompson*, 913 F.2d 701 (9th Cir. 1990) and *Edwards v. Healy*, 12 F.3d 154 (9th Cir. 1993), the children and their grandmother would receive $1,173 per month—$271 more each month than they receive as a single assistance unit.

III. STATE AFDC BENEFIT LEVELS ARE SUBSTANTIALLY BELOW THE POVERTY LEVEL AND ARE INADEQUATE TO MEET THE NEEDS OF POOR FAMILIES.

Despite significant unmet economic needs, public assistance programs such as AFDC have been "far from providing a true safety net." Minkler & Roe, *supra*, at 98. Grandmothers have described the "miserly benefits offered, the stigma and shame that frequently went with them, and the seemingly endless forms and red tape involved in gaining access." *Id.*

Each state establishes a "standard of need" for program eligibility and benefit amount. 42 U.S.C. § 602 (a)(23) (1988). However, no state's AFDC benefit amount reaches the federal poverty threshold established by the Census Bureau. U.S. House of Representatives, Committee on Ways and Means, *Overview of Entitlement Programs: 1994 Green Book* 366-367, Tables 10-11 (1994).

The stark inadequacy of AFDC benefit levels is demonstrated by comparing the monthly payment to the poverty level. In 1993, the federal poverty level for a family of three persons was $11,521, or $960 per month (Alaska and Hawaii levels are somewhat higher). *Id.* California's 1993 AFDC benefits for a one-parent family of three persons, stated as a percent of the 1993 poverty level, were 63 percent, the fourth most generous level following Alaska (77 percent), New York City (73 percent), Connecticut (71 percent), and Hawaii (65 percent). *Id.* Mississippi (13 percent), Alabama (17 percent), Tennessee (19 percent), and Texas (19 percent) are the most meager jurisdictions. *Id.* More striking is the median monthly AFDC benefit for all 50 states, Guam, Puerto Rico, and the Virgin Islands—a mere 38 percent of the federal poverty level.[15] *Id.*

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[15] The percentages for jurisdictions supporting petitioners run the gamut:

While AFDC benefits offer some help to grandparents raising their grandchildren, the monthly benefit amounts are already inadequate. California's consolidation policy forces the affected families to live on less, which discourages grandparents from trying to keep their families intact.

IV. CALIFORNIA'S CONSOLIDATION POLICY IS INCONSISTENT WITH THE AFDC STATUTE'S GOALS AND OBJECTIVES.

The Aid to Families with Dependent Children (AFDC) Program is designed to "encourag[e] the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance . . . to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life." 42 U.S.C. § 601 (1988). Over the years it has been extended to needy children who have been deprived of parental support and to certain needy relatives who live with them. *Id.* Despite a steady erosion of benefit levels, AFDC remains an essential, albeit inadequate, source of support for poor dependent children and their caretakers.

The effects of California's consolidation policy are inconsistent with the goals and objectives of the AFDC program. One unquestioned result of state policies such as California's consolidation policy is a diminution in the already meager income of the household. The Wilkes family discussed earlier at footnote 14 offers insight into the plight of grandparents committed to keeping their families together in the face of a policy such as California's.

CA	63	MA	60	OK	34
AK	77	MN	55	OR	48
CT	71	MT	42	PA	44
DC	44	NC	28	RI	58
FL	32	NJ	44	SD	43
HI	65	NV	36	VT	67
IL	38	NY	73 (Suffolk Co.)	VA	37

1994 Green Book, supra, at 366-367.

Other grandmothers have testified about their circumstances before Congressional committees.[16] If more proof is needed, Mrs. Edwards and the children she is trying to raise amply illustrate the family devastation and humiliation which results from Petitioner's policy and others like it. (Res. Brf. at Statement of the Case).

A second predictable effect is placement of grandchildren in foster care or institutions. The foster care alternative contradicts the express goals of AFDC to keep children with their families and often has significant deleterious effects on the children placed in foster care, the children remaining in the home, and the caretaker who is forced to make this difficult decision. (Res. Brf. at Statement of the Case). In fact, class members in this case who have been forced to make this choice have suffered these effects.[17]

Moreover, when a grandmother is compelled to relinquish her grandchildren to foster care because the state refuses to give her adequate benefits, the state will then spend more to maintain the children in foster care than in the grandmother's care. States are authorized to provide maintenance payments (called AFDC-FC) for AFDC-eligible children in foster care family homes, private nonprofit child care facilities, or some public child care institutions. 42 U.S.C. §§ 670, 676 (1988). For example, a non-needy grandmother raising one granddaughter costs California $299 per month in AFDC bene-

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[16] In September, 1992, a 76-year-old grandmother testified on behalf of AARP before the Aging Braintrust of the Congressional Black Caucus about the difficulties she has encountered trying to raise five great-grandchildren. She told them that "[i]t is very rough financially . . . my retirement goes to support the house and these kids." Alma Strange, *Grandparenting in an Age of Drugs, Violence, and Crime* 2 (Sept. 25, 1992) (on file at AARP).

[17] Mrs. Moore's twin two-and-one-half month old grandchildren were placed in foster care for precisely this reason despite her express wish to be able to care for them at home. (Res. Brf. at Statment of the Case).

fits as a one-person unit. If it is necessary for the grandmother to take in a second child—for example, a great niece—under California's consolidation policy the second child would not be considered a separate assistance unit. The grandmother would receive only an additional $191 for the care of the second child, instead of the additional $299 per month she would receive if the second child were considered a separate assistance unit. If the grandmother could not afford to take in the second child and was forced to place the child in foster care, the state would pay $400 per month for foster care. This cost difference is consistent in most states.[18]

A third, incongruous, result of Petitioner's policy is that a poor child living with a wealthier grandparent re-

[18] The following chart illustrates the example in other states:

	age 9 AFDC-FC	*1-person AFDC*	*AFDC Increment for Second Child*
CA	400	299	191
AK	523	514	307
CT	524	430	119
DC	437	265	65
FL	296	180	61
HI	529	418	147
IL	326	212	56
MA	415	392	114
MN	377	250	187
MT	322	235	83
NC	265	181	55
NJ	280	162	160
NV	281	229	59
NY (Suffolk Co.)	441	446	130
OK	360	200	51
OR	317	310	85
PA	357	215	115
RI	273	327	122
SD	308	293	75
VT	321	437	99
VA	294	220	74

1994 Green Book, supra, at 368-369, 611-612.

ceives more AFDC funds than a similarly needy child living with a poorer grandparent. For example, if a poor grandchild moves in with a non-needy grandmother, her income is not considered for AFDC purposes (because the grandmother is not legally responsible to provide any assistance to the child). Therefore the grandchild receives a full one person AFDC grant of $299. *1994 Green Book*, *supra*, at 368. However, if a grandchild is taken in by a needy grandmother, who, for example, is receiving an AFDC two person grant of $490 for herself and another child, the needy grandmother will receive only $117 more to care for her grandchild. *Id.* The poor grandmother actually receives less to care for her grandchild than the wealthier grandmother.

California's consolidation policy punishes children and their caretakers. Instead of "encouraging the care of dependent children in their own homes or in the homes of relatives," 42 U.S.C. § 601 (1988), California's consolidation policy strongly discourages family integrity. Instead of building families, the policy imperils them.

CONCLUSION

For the foregoing reasons, AARP respectfully submits that the judgment of the United States Court of Appeals for the Ninth Circuit should be affirmed.

Respectfully submitted,

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